

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.11908 of 2018

ProConnect Supply Chain Solutions Limited
Represented by Mr.Kasi Viswanathan,
Chief Financial Officer and Authorised Signatory,
having registered office at
SPL Guindy House, 95 Mount Road,
Guindy, Chennai - 600 032. ... Petitioner

Vs

State Represented by Inspector of Police,
Kavaraipettai Police Station
Thiruvallur District,
(Crime No.380/2017) ...Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to modify the condition imposed by the learned Judicial Magistrate No.I, Ponneri by an order dated 28.11.2017 in Crl.M.P.No.3120/2017 that the petitioner shall not alienate or change the nature of the property and further allow/permit the petitioner to sell the aforesaid Mobiles.

For Petitioner : Mr.S.Suresh
For Respondent : Mrs.P.Kritika Kamal
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to modify the condition imposed by the learned Judicial Magistrate No.I, Ponneri by order dated 28.11.2017 in Crl.M.P.No.3120/2017 to the effect that the petitioner shall not alienate or change the nature of the property and further allow/permit the petitioner to sell Mobiles.

2.The petitioner is the Manager of ProConnect Supply Chain Solutions Limited which is dealing in sales and supplies of mobile phones. Some mobile phones were found missing in the shop, pursuant to which, on the complaint given by the petitioner, a case in Crime No.380 of 2017 was registered under Section 381 IPC on 17.09.2017 and during investigation, the Police arrested one Mannar Mannan and recovered 21 mobile phones and produced the same before the Judicial Magistrate No.I,

Ponneri. The petitioner filed CrI.M.P.No.3120 of 2017 in Crime No.380 of 2017 under Sections 451 & 457 Cr.P.C. for interim custody of the mobile phones in which, the learned Judicial Magistrate No.I, Ponneri passed orders on 28.11.2017 on certain conditions, one of which is as follows.

He shall not alienate or change the nature of the property"

3. The petitioner has furnished the sureties and has taken custody of the mobile phones and thereafter, filed the present petition for deleting the aforesaid condition.

4. Heard Mr.S.Suresh, the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.side) appearing for the respondent.

5. The fact remains that there was a theft in the shop of the petitioner, pursuant to which, the Police registered an FIR as stated above. The lost goods were recovered by the Police and the learned Judicial Magistrate No.I, Ponneri has returned the same to the petitioner under Section 451 Cr.P.C. To say that the petitioner shall keep the goods indefinitely till the trial is over would amount to travesty of justice. It is true that corpus delicti is essential in a theft case. However, it is common knowledge that trials in such cases will not get over in the near future. If the victim is directed to preserve the articles for an indefinite period, he would suffer undue prejudice. Therefore, this Court deletes the said condition imposed by Judicial Magistrate No.I, Ponneri that he shall not alienate or change the nature of the property.

6. The petitioner is directed to produce the mobile phones before the Judicial Magistrate No.I, Ponneri within a period of four weeks from the date of receipt of a copy of this order. On such production, the Inspector of Police / Investigating Officer and the Judicial Magistrate No.I, Ponneri shall prepare an inventory and certify the same. If the photographs are already available, the said photographs shall also be certified by the Judicial Magistrate and the Investigating Officer. Thereafter, the mobile phones should be handed over to the petitioner who will be entitled to deal with the same. The inventory and the photographs so certified shall be treated as evidence before the trial court.

This Criminal Original Petition is disposed of with above directions.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

arr/lok

To

1. The Judicial Magistrate No.I,
Ponneri

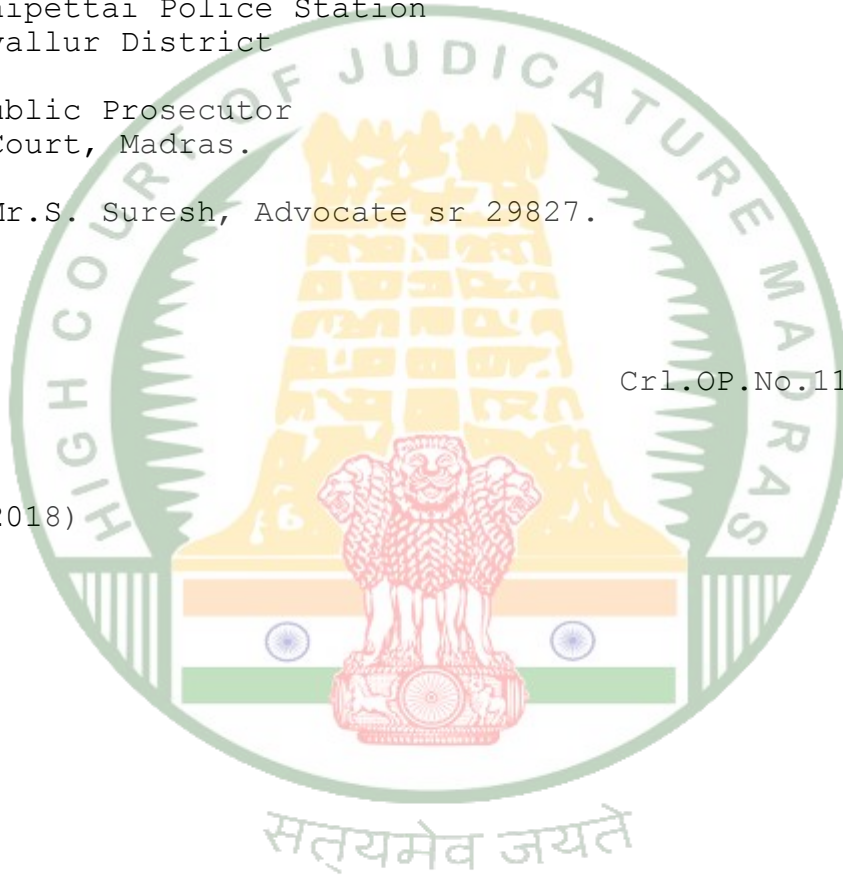
Thro The Chief Judicial Magistrate,
Thiruvallur.

2. The Inspector of Police,
Kavaraipettai Police Station
Thiruvallur District
3. The Public Prosecutor
High Court, Madras.

+1 CC to Mr.S. Suresh, Advocate sr 29827.

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SP(08/05/2018)



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